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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/551,508	06/05/2006	Young Tae Kim	428.1056	8016	
20311 LUCAS & MEI	7590 08/22/200 RCANTI, LLP	8	EXAMINER		
475 PARK AVI		SAIDHA, TEKCHAND			
15TH FLOOR NEW YORK, NY 10016			ART UNIT	PAPER NUMBER	
			1652		
			MAIL DATE	DELIVERY MODE	
			08/22/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Comments	10/551,508	KIM ET AL.				
Office Action Summary	Examiner	Art Unit				
	Tekchand Saidha	1652				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence add	dress			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 6(a). In no event, however, may a reply be timil apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	I. lely filed the mailing date of this co (35 U.S.C. § 133).				
Status						
1)⊠ Responsive to communication(s) filed on <u>29 Se</u>	entember 2005					
	action is non-final.					
·=		eccution as to the	morite ie			
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
closed in accordance with the practice under Z	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.				
Disposition of Claims						
4) Claim(s) <u>1-19</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	n from consideration.					
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-19</u> are subject to restriction and/or e	lection requirement					
o) Claim(s) 1-19 are subject to restriction and/or e	nection requirement.					
Application Papers						
9)☐ The specification is objected to by the Examine	•.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
		, , , , , , , , , , , , , , , , , , , ,	o .o <u>-</u> .			
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list of the certified copies of the attached detailed Office action for a list of the certified copies of the certified copies of the prior application from the International Bureau 	s have been received. s have been received in Application ity documents have been received (PCT Rule 17.2(a)).	on No In this National S	Stage			
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	te				

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DETAILED ACTION

Election/Restrictions

- 1. Claims 1-19 filed on **9/29/2005** are pending in this application.
- 2. Restriction is required under 35 U.S.C. 121 and 372.
- 3. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
- 4. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, drawn to a gene encoding carotenoid biosynthesis polypeptide consisting of nucleic sequences selected from sequences of SEQ ID Nos. 5, 7, 9, 11, 13 and 15.

Group II, claim(s) 8, 10-17 drawn to all genes of claim 2, represented by SEQ ID Nos. 4.

Group III, claim(s) 9, drawn to a protein encoded by the gene of claim 1 wherein the protein sequences are selected from a group consisting sequences of SEQ ID Nos. 6, 8, 10, 12, 14 & 16.

Group IV, claim(s) 18-19, drawn to a *Paracoccus haeundaensis* producing astaxanthine, which has a 16S rDNA nucleotide sequence represented by SEQ. ID. No 3.

For each of inventions I or III above, restriction to one of the following is also required. Therefore, election is required of one of inventions I or III and one of inventions sequences listed in Group I or Group III.

Group I: Select one of the following DNA sequences- sequences of SEQ ID Nos. **5**, **7**, **9**, **11**, **13** and **15**.

Group II: Select one of the following protein sequences- sequences of SEQ ID Nos. 6, 8, 10, 12, 14 & 16.

4. The inventions listed as Groups I-X and (A)-(L) do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons: The

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technical feature linking Groups I-IV appears to be that they all relate to sequences of SEQ ID Nos. 5, 7, 9, 11, 13 and 15, encoding carotenoid biosynthesis polypeptide of SEQ ID Nos. 6, 8, 10, 12, 14 & 16.

According to the international preliminary examination report [IPER] clams 1, 2 & 3 lack novelty as being anticipated by NCBI accession No. D58420 (28 August 2002); claims 1, 4-8, 10-17 lack novelty as being anticipated by NCBI accession No. Y15112 (15 September 1999); and claim 9 as being anticipated by NCBI accession Nos. BAA09591 (28 August 2002), CAB56060 (15 September 1999), BAA09593 (28 August 2002), CAB56062 (15 September 1999), CAB56063 (15 September 1999) and CAB56064 (15 September 1999).

Therefore, Groups I-IV and the sequences share no special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art. Accordingly, Groups I-IV and various sequences are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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7. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must submit a CRF copy and paper copy of the Sequence Listing, a statement that the content of the paper and computer readable copies are the same and where applicable include no new matter as required by 37 C.F.R. j 1.821(e) or 1.821(9 or 1.821(g) or 1 .825(d), as well as an amendment directing its entry into the specification.

Applicants' filed Computer Readable form(CRF) of the sequence listing is in error. A copy error report is provided.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha whose telephone number is (571) 272 0940. The examiner can normally be reached on 8.30 am - 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed can be reached on (571) 272 0934. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tekchand Saidha/ Primary Examiner, Art Unit 1652 Recombinant Enzymes, E02A65 Remsen Bld. 400 Dulany Street, Alexandria, VA Telephone: (571) 272-0940